

# CORRESPONDENCE

THE EDITOR,  
THE CANADIAN BAR REVIEW.

Your reviewer, J.A.R.M., in the January issue at page 107, refers twice to the "official reports". This is a prevalent misconception. If you read Sir Frederick Pollock's address on "English Law Reporting", printed in his "Essays on the Law", you will note that he emphasizes (and he of all men should have known) that there is no such thing in England as an "official" law report. "According to modern custom" he says "any report vouched for at the time by a member of the bar may be used in court for what it is worth . . . in 1865 the Council of Law Reporting and their reports came into existence. That body is not a Government or official institution . . . it is a joint committee of the Inns of Court, the Law Society (representing solicitors, who, with us, as you know, are a distinct branch of the profession), and, of late years, the Bar Council. . . . My learned colleagues on the staff of the Law Reports and myself are *not* an official hierarchy."

Likewise, with the possible exception of the Canada Law Reports, there are no "official" law reports in Canada. Because a law society authorizes and finances the publication of reports that fact does not make them official.

There is far too strong a tendency in Canada today in every direction towards officialdom and I, therefore, am writing this note in the hope that it may serve to check that tendency in so far as it affects the younger members of the bar and contributors to your very interesting publication, on the merits of which may I tender you and your associates my sincere compliments.

Calgary

W. KENT POWER

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Mr. J. A. R. Mason has replied as follows to Mr. Power's letter:—

I have read with interest Mr. Power's letter to you with respect to my review of Wrinch's "Cases Judicially Noticed."

If the use of the term "official" is erroneous, the late Honourable Wallace Nesbitt, K.C., at the time Treasurer of the Law Society, fell into the same error in writing the preface to Mr. Wrinch's first edition. It seems to me, however, that Mr. Power has overlooked the statutory provisions which apply in Ontario at least. It is provided by R.S.O., 1937, c. 221, s. 51 that the benchers may appoint such barristers as they may think proper to report and edit the decisions of the courts, such persons to be amenable to the benchers in convocation for the correct and faithful discharge of their duties.

Even if there were no statutory provision I would still regard the term "official", as distinguished from "authoritative", to be correct as applying to reports published under the authority of a Law Society. Such reports are vouched for by persons in the office of bencher and in that sense are official. In addition, I understand that reports authorized by the Law Societies are submitted, before publication, to the judges for revision and in that sense differ from other reports. The use of the term "official" seems to me the only convenient way to distinguish the two types of reports. I think it is understood in the profession that the term does not imply that these reports carry any particular authority before the courts.

I have read Sir Frederick Pollock's address on "Law Reporting" but I doubt that his remarks can be applied, without reserve, to the circumstances of law reporting in Canada.